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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,258	05/29/2001	Ivan Gout	040750-5002	2842

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EXAMINER

RAMIREZ, DELIA M

ART UNIT

PAPER NUMBER

1652

DATE MAILED: 08/26/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N .

09/762,258

Applicant(s)

GOUT ET AL.

Examiner

Delia M. Ramirez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-36 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Status of the Application*

Claims 1-36 are pending.

### *Election/Restrictions*

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-4, 16, 32-36, drawn to the polynucleotide of SEQ ID NO: 1.

Group II, claim(s) 5, 15, 23-24, drawn to the polypeptide of SEQ ID NO: 2.

Group III, claim(s) 12-14, drawn to an antibody specific against the polypeptide of SEQ ID NO: 2.

Group IV, claim(s) 25, drawn to a polypeptide which binds to the polypeptide of SEQ ID NO: 2.

Group V, claim(s) 26, drawn to a polypeptide which binds to a variant of the polypeptide of SEQ ID NO: 2.

Group VI, claim(s) 27, drawn to an antibody specific to polypeptides which bind to the polypeptide of SEQ ID NO: 2 or a variant thereof.

Group VII, claim(s) 6, 8-9, drawn to a method of identifying an agent that modulates the phosphorylation activity of the polypeptide of SEQ ID NO: 2 or the phosphorylation activity of proteins that interact with the polypeptide of SEQ ID NO: 2.

Group VIII, claim(s) 7, drawn to method of modulating protein synthesis with an agent which modulates p70β<sup>s6k</sup> mediated phosphorylation of a ribosomal S6 subunit.

Group IX, claim(s) 10, drawn to a method of modulating protein synthesis with an agent which modulates the phosphorylation of p70β<sup>s6k</sup>.

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Group X, claim(s) 11, drawn to a method of modulating cell cycle by using an agent which regulates the binding of the polypeptide of SEQ ID NO: 2 to a ligand.

Group XI, claim(s) 17-18, drawn to a method of identifying a substrate of the polypeptide of SEQ ID NO: 2.

Group XII, claim(s) 19-22, drawn to a method of identifying binding partners of the polypeptide of SEQ ID NO: 2.

Group XIII, claim(s) 28-30, drawn to a method of determining if a cell expresses aberrant cellular levels of the polypeptide of SEQ ID NO: 2.

Group XIV, claim(s) 31, drawn to a method of determining if a cell expresses aberrant cellular levels of a binding partner of the polypeptide of SEQ ID NO: 2.

2. The special technical feature linking Groups I-XIV appears to be that they all relate to a P70 S6 kinase (polypeptide of SEQ ID NO: 2).

3. The inventions listed as Groups I-XIV do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: p70 S6 kinases are known in the art. Grove et al. (Molecular and Cellular Biology, 11(11):5541-5550, 1991; cited in the IDS) teaches the cloning and expression of two human p70 S6 kinases. Since the technical feature linking Group I-XIV does not define a contribution over the prior art, the claimed inventions do not meet the requirement of unity of invention under PCT Rule 13.2. In addition, Groups I-XIV are drawn to different products and different methods. Since 37 CFR 1.475 does not provide for multiple products and/or methods within a single application, unity of invention is lacking with regard to Groups I-XIV.

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4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement can be traversed (37 CFR 1.143).
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).
6. Applicants are requested to submit a clean copy of the pending claims (including amendments, if any) in future written communications to aid in the examination of this application.
7. Certain papers related to this application may be submitted to Art Unit 1652 by facsimile transmission. The FAX number is (703) 308-4556. The faxing of such papers must conform with the notices published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If Applicant submits a paper by FAX, the original copy should be retained by Applicant or Applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Delia M. Ramirez whose telephone number is (703) 306-0288. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Ponnathapura Achutamurthy can be reached on (703) 308-3804. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Delia M. Ramirez, Ph.D.  
Patent Examiner  
Art Unit 1652

DR  
August 16, 2002

  
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